

Remarks

Claims 1-14 are currently pending in this application. Claims 1 and 6 are independent. Claims 1 and 6 are currently amended. Claims 2, 3 and 13 are canceled.

The Office Action objects to the specification because the Abstract contains claim phraseology, is not on a separate sheet, and “chafe” is misspelled in the last sentence. Applicant has submitted a new Abstract as a replacement paragraph, thereby obviating the objection.

The Office Action objects to claims 3 and 13 for containing the word “either.” Applicant has canceled claims 3 and 13, thereby obviating the objections.

The Office Action objects to claim 6 for containing the word “paragraphs,” and the phrase “the or each set.” Applicant has amended claim 6 to delete the word “paragraphs” and insert the word “claims,” and applicant has amended claim 6 to delete the phrase “the or,” thereby obviating the objections.

Rejection Under 35 U.S.C. § 102(b)

Claims 1-4, 6, 7 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gilmour et al., U.S. Patent No. 6,155,998 (“Gilmour”).

Independent claim 1 currently recites a chafe comprising a member having a slot therein, a stud, and connection means connecting the stud and member having the slot therein, wherein the member, the connection means and the stud are formed as a unitary construction. The Office Action states that Gilmour discloses a chafe comprising a slot therein, a stud, and a connection means connecting the stud and the slot. However, the chafe in Gilmour does not include a stud, rather, Gilmour discloses a chafe including an aperture (see, e.g., Fig. 5, no. 36; Col. 3, line 49), through which a separate fixing pin (see, e.g., Fig. 1, no. 35; Col. 3, line 51) may be inserted. In addition, the separate fixing pin is clearly not formed as a unitary construction with the member, connection means, as required by claim 1 as amended.

Because Gilmour fails to disclose a chafe comprising a member having a slot therein, a stud, and connection means connecting the stud and member having the slot therein, and because

Gilmour also fails to provide a unitary construction, it does not disclose each and every limitation of independent claim 1.

In view of the above, it is respectfully submitted that Gilmour fails to anticipate claim 1, and claims 2-4, 6, 7 and 13, which depend therefrom.

Rejection under 15 U.S.C. § 103(a)

Claims 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilmour in view of Plath et al., U.S. Patent No. 5,311,972 (“Plath”).

As set forth hereinabove, Gilmour fails to substantially disclose the invention recited in independent claim 1. Additionally, Gilmour fails to disclose that the aperture has a wider lower part and a narrower upper end so the stud can pass through the lower part and be retained by the upper end, as recited in claim 8. Plath fails to cure the deficiencies of Gilmour by providing a chafe comprising a member having a slot therein, a stud, and connection means connecting the stud and member having the slot therein, wherein the member, the connection means and the stud are formed as a unitary construction. Moreover, Plath may not be properly combined with Gilmour for at least the reasons set forth hereinbelow.

Plath is concerned with the art of luggage design. One of ordinary skill in the art of medical devices, specifically orthopedic walkers, would not and should not be motivated to look to the field of luggage design to solve problems encountered in designing walkers. Furthermore, Plath fails to solve the problem encountered by the present invention. Plath solves the problem of attaching a piece of auxiliary luggage to a piece of main luggage (see, e.g., Col. 2, lines 1-10), and in Plath there is no need to provide for the adjustment of the position of the auxiliary luggage. By contrast, the present invention is concerned with adapting straps to a variety of positions to fit over bandaged feet following surgery or injury (see, e.g., Paragraph 5), hence, the present invention requires allowing for a variety of different strap positions (see, e.g., Paragraph 13). Because Plath is an invention in an entirely different field of art from, and deals with an entirely different problem than, the present invention, one of ordinary skill in the art would not look to Plath while designing an orthopedic walker.

Plath does not contain a suggestion or motivation to combine with Gilmour, but rather teaches away from the combination. The present invention's orientation of the stud and aperture arrangement differs from Plath. Plath teaches a stud extending outwardly from an exterior surface of the luggage (see, e.g., Col. 2, lines 31-34) and a clasp including a socket (see, e.g., Col. 2, lines 35-34). In the present invention, the stud is on the chafe (see, e.g., Paragraph 11) and the aperture is on the walker frame (see, e.g., Paragraph 13), rather than having the stud on the walker frame and the aperture in the chafe as might be suggested by Plath. Plath contains no motivation or suggestion to reverse the orientation of the stud and socket combination. Moreover, Plath teaches away from the orientation in the present invention because the socket in Plath could not be mounted onto the exterior surfaces of the luggage without the insertion of an undesirable hole into the luggage, exposing the contents to the elements. Furthermore, mounting the socket in Plath to the exterior surface of the luggage could make it harder for users to unhitch the clasp, contravening Plath's purpose of improving the ease of hitching and unhitching auxiliary luggage (see, e.g., Col. 1, lines 64-68).

Plath further teaches away from combination with Gilmour because Plath does not allow for adjustability of strap position. Introducing adjustability of strap position into Plath would require either the addition of a number of studs mounted on the exterior surface of the luggage or increasing the width of the clasp to allow space for more sockets. Both of those solutions would serve no purpose, would introduce awkwardness into use of the invention and would increase the likelihood of damage during handling, contravening Plath's purpose of improving luggage (see, e.g., Col. 1, lines 34-36 and 64-68).

Because Plath concerns a different field of invention and is directed at solving a different problem, one of ordinary skill in the art would not refer to Plath while designing an orthopedic walker. For this reason, and because Plath teaches away from the principles of Gilmour, the combination of Gilmour and Plath is improper.

In view of the above it is respectfully submitted that claims 8-10 are not unpatentable over Gilmour in view of Plath.

Claims 11 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilmour and Plath in view of Coy et al., U.S. Patent No. 5,836,626 (“Coy”).

Gilmour in view of Plath is distinguished from claim 8 as set for above. Coy fails to cure the deficiencies of Gilmour and Plath by providing a chafe comprising a member having a slot therein, a stud, and connection means connecting the stud and member having the slot therein, wherein the member, the connection means and the stud are formed as a unitary construction. In addition, Coy does not teach a slot having an upper edge formed to a saw tooth pattern, the edges of each upwardly extending part, in use, being such that the head of the stud will be retained therein, as recited in claims 11 and 14.

The saw-toothed pattern is not a mere design consideration as it accomplishes two stated purposes. First, the saw-toothed pattern allows for the retention of the stud head in the upper edges of the saw-toothed pattern (see, e.g., Claims 11 and 14; Paragraphs 18, 35 and 37). Second, the straps themselves can be passed through the saw-toothed slot, where the teeth will effect a gripping motion on the strap, helping to maintain the strap in the position that it has been originally located (see, e.g., Paragraph 37).

Additionally, Coy may not be properly combined with Gilmour for at least the following reasons. Coy is concerned with the art of door locks. One of ordinary skill in the art of orthopedic walkers would not be motivated to look to the field of door locks for solutions to the problems encountered in designing an improved walker. The notched slot (see, e.g., Fig. 2, no. 22, 22) in Coy only solves the problem of allowing a securement member (see, e.g., Fig. 2, no. 17) to slide along a plate (see, e.g., Fig. 2, no. 14) and fails to solve the problem of allowing chafe insertion along a slot or alternatively allowing insertion of a strap in the slot. One of ordinary skill in the art of orthopedic walkers would not look to a solution of allowing a securement member to slide along a plate in a door lock when trying to solve the problem of allowing chafe insertion or alternative insertion of a strap in a slot in an orthopedic walker frame.

Coy teaches a slot (see, e.g., Fig. 3, no. 22) with notches (see, e.g., Fig. 3, no. 21) with parallel sides (see, e.g., Fig. 3, no. 21) to secure a retaining pin (see, e.g., Fig. 3, no. 28). The present invention requires a slot with a saw-toothed upper edge to allow for the retention of the

stud of a chafe and alternatively to allow the insertion of a strap (see, e.g., Claims 11 and 14; Paragraphs 18, 35 and 37). The use of notches with parallel sides in the present invention would not allow for insertion of the stud of a chafe at the lower part of the notched edge and retention of the head of the stud at the upper part of the edge. Also, Coy does not teach the alternative insertion of a strap into the slot. Rather, the notches present in Coy (see, e.g., Fig. 3, no. 21) would damage a strap if it were inserted into the slot (see, e.g., Fig. 3, no. 22). Moreover, use of a triangular saw-toothed pattern would not work in Coy. Use of a triangular saw-toothed pattern in Coy would allow lateral force on the securement member (see, e.g., Fig. 3, no. 17) to be transferred into compressive force on the spring (see, e.g., Fig. 3, no. 26), thereby allowing the retaining pin (see, e.g., Fig. 3, no. 28) to leave its notch, thereby allowing the door to open, and the lock to fail. One of ordinary skill in the art would recognize that Coy and the present invention are not incompatible, and would expect the use of Coy to fail in the present invention.

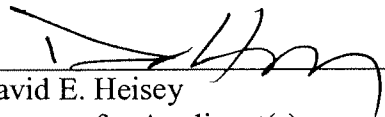
In view of the above, it is respectfully submitted that claims 11 and 14 are not unpatentable over Gilmour and Plath in view of Coy.

Conclusion

Based on the foregoing, favorable reconsideration and allowance of claims 1-14 is solicited. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge payment (or credit any overpayment) to Deposit Account No. 19-1853 for any additional required fees.

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Respectfully submitted,



David E. Heisey
Attorney for Applicant(s)
Reg. No. 42,651

SHEPPARD MULLIN RICHTER
& HAMPTON LLP
333 S. Hope Street, 48th Floor
Los Angeles, CA 90071
Telephone No.: (858) 720-8936
Facsimile No.: (858) 509-3691